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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/824,216

04/14/2004

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EXAMINER

KANGARLOO, RAMTIN

ART UNIT

PAPER NUMBER

4177

MAIL DATE

DELIVERY MODE

10/17/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/824,216

Applicant(s)

MEIER ET AL.

Examiner

Ramtin Kangarloo

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4177

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 9/9/2005.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- ☐ Notice of Informal Patent Application
- ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1, 13 and 20 are method claims but do not constitute a method steps.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-22 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims are directed to a code mask, which is a data signal, which is not a tangible physical article, or object (form of matter), thus it is not a machine or a composition of matter. Since both a machine and a composition of matter require physical matter it is evidence that a manufacture was also intended to require physical matter. The signal, which is a form of energy, also does not fall within either of the two definition of a manufacture, and thus does not fall within one of the four statutory classes of **35 USC § 101**.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-7 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Grilli (US Patent No 6438117).

Regarding **claim 1**, a method of wireless communication, comprising:
generating a code mask for coding transmissions over a traffic channel (See Col. 26, Lines 57-59) based on at least one frequency differentiator indicative of a frequency range, at least one band class differentiator indicative of a band class, and at least one traffic channel differentiator indicative of a traffic channel (See Col. 26, Lines 13- 16).

Regarding **claim 2**, the method of claim 1, wherein the traffic channel differentiator comprises a Walsh code assigned to the traffic channel (See Col. 25, Lines 64 –68).

Regarding **claim 3**, the method of claim 1, wherein the frequency differentiator comprises a channel number (See Col. 16, Lines 34-37).

Regarding **claim 4**, the method of claim 1, wherein the band class differentiator comprises a band class number (See Col. 26, Lines 13 –16).

Regarding **claim 5**, the method of claim 1, wherein generating the code mask comprises combining the frequency differentiator, the band class differentiator, and the traffic channel differentiator (See Col. 26, Lines 13 -16 and 45-47 and Fig. 14).

Regarding **claim 6**, the method of claim 5, wherein combining the frequency differentiator, the band class differentiator, and the traffic channel differentiator comprises concatenating the frequency differentiator, the band class differentiator, and the traffic channel differentiator in a desired order (Fig. 14).

Regarding **claim 7**, the method of claim 6, wherein concatenating the frequency differentiator, the band class differentiator, and the traffic channel differentiator comprises arranging one or more strings of bits in a discontinuous manner (Fig.14).

Regarding **claim 9**, the method of claim 1, further comprising transmitting a message indicative of the generated code mask from a base station assigning the traffic channel (See Col. 26, Lines 57-61).

5. Claims 1-22 are provisionally rejected under 35 U.S.C. 102(e) as being anticipated by copending Application No. 10/423947 which has a common inventor with the instant application. Based upon the earlier effective U.S. filing date of the copending application, it would constitute prior art under 35 U.S.C. 102(e), if published under 35 U.S.C. 122(b) or patented. This provisional rejection under 35 U.S.C. 102(e) is based upon a presumption of future publication or patenting of the copending application.

This provisional rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the copending application was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate

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showing under 37 CFR 1.131. This rejection may not be overcome by the filing of a terminal disclaimer. See *In re Bartfeld*, 925 F.2d 1450, 17 USPQ2d 1885 (Fed. Cir. 1991).

Regarding **claim 1**, a method of wireless communication, comprising:
generating a code mask for coding transmissions over a traffic channel based on at least one frequency differentiator indicative of a frequency range, at least one band class differentiator indicative of a band class, and at least one traffic channel differentiator indicative of a traffic channel (Abstract).

Regarding **claim 2**, the method of claim 1, wherein the traffic channel differentiator comprises a Walsh code assigned to the traffic channel (Fig.3 and Fig. 4).

Regarding **claim 3**, the method of claim 1, wherein the frequency differentiator comprises a channel number (Fig. 4 and Fig. 5).

Regarding **claim 4**, the method of claim 1, wherein the band class differentiator comprises a band class number (Fig. 4 and Fig. 5).

Regarding **claim 5**, the method of claim 1, wherein generating the code mask comprises combining the frequency differentiator, the band class differentiator, and the traffic channel differentiator (see Page. 2, Paragraph [0020]).

Regarding **claim 6**, the method of claim 5, wherein combining the frequency differentiator, the band class differentiator, and the traffic channel differentiator comprises concatenating the frequency differentiator, the band class differentiator, and the traffic channel differentiator in a desired order (see Page. 2, Paragraph [0020]).

Regarding **claim 7**, the method of claim 6, wherein concatenating the frequency differentiator, the band class differentiator, and the traffic channel differentiator comprises arranging one or more strings of bits in a discontinuous manner (see Page. 2, Paragraph [0020]).

Regarding **claim 8**, the method of claim 5, wherein combining the frequency differentiator, the band class differentiator, and the traffic channel differentiator comprises at least one of multiplexing, encoding, permutating, and functionally manipulating at least a portion of at least one of the frequency

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differentiator, the band class differentiator, and the traffic channel differentiator (see Page. 2, Paragraph [0020]).

Regarding **claim 9**, the method of claim 1, further comprising transmitting a message indicative of the generated code mask from a base station assigning the traffic channel (see Page. 2, Paragraph [0018]).

Regarding **claim 10**, the method of claim 9, further comprising sending the generated code mask to a mobile unit (see Page. 3, Paragraph [0028]).

Regarding **claim 11**, the method of claim 1, further comprising delaying re-assignment of the traffic channel indicator until substantially after a predetermined time (see Page. 3, Paragraph [0029]).

Regarding **claim 12**, the method of claim 11, wherein delaying re-assignment of the traffic channel indicator until substantially after the predetermined time comprises delaying re-assignment of the traffic channel indicator until substantially after a guard timer expires (see Page. 3, Paragraph [0029]).

Regarding **claim 13**, a method, comprising: receiving an indication that an inter-frequency handoff from a first frequency range to a second frequency range is to be initiated; generating, in response to receiving the indication, a code mask for coding transmissions over a traffic channel based on at least one frequency differentiator indicative of the second frequency range, at least one band class differentiator indicative of a band class, and at least one traffic channel differentiator indicative of a traffic channel; performing the inter-frequency handoff from the first frequency to the second frequency; and transmitting the code mask (see Page. 1, Paragraph [0001] and Abstract).

Regarding **claim 14**, the method of claim 13, wherein transmitting the code mask comprises transmitting the code mask substantially after performing the inter-frequency handoff from the first frequency range to the second frequency range (see Page. 3, Paragraph [0029]).

Regarding **claim 15**, the method of claim 13, wherein transmitting the code mask comprises transmitting the code mask during the inter-frequency handoff from the first frequency range to the second frequency range (see Page. 3, Paragraph [0029]).

Regarding **claim 16**, the method of claim 13, wherein receiving the indication comprises receiving an indication transmitted from a mobile unit to a base station (see Page. 3, Paragraph [0029]).

Regarding **claim 17**, the method of claim 13, wherein the traffic channel differentiator comprises a Walsh code assigned to the traffic channel, the frequency differentiator comprises a channel number indicative of the second frequency range, and the band class differentiator comprises a band class number (see Page. 2, Paragraph [0011]).

Regarding **claim 18**, the method of claim 13, wherein generating the code mask comprises combining the frequency differentiator, the band class differentiator, and the traffic channel differentiator (see Page. 2, Paragraph [0011]).

Regarding **claim 19**, the method of claim 13, further comprising assigning the traffic channel indicator to a new wireless communication link substantially after a predetermined time (see Page. 1, Paragraph [0004]).

Regarding **claim 20**, a method of wireless communication, comprising:
receiving a code mask for coding transmissions over a traffic channel based on
at least one frequency differentiator indicative of a frequency range, at least one
band class differentiator indicative of a band class, and at least one traffic
channel differentiator indicative of a traffic channel; and transmitting over the
traffic channel using the received code mask (see Page. 1, Paragraph [0010]).

Regarding **claim 21**, the method of claim 20, wherein receiving the code
mask comprises receiving the code mask substantially during or after an inter-
frequency handoff (see Page. 2, Paragraph [0012]).

Regarding **claim 22**, the method of claim 21, wherein receiving the code
mask comprises receiving a code mask that is different than a previous code
mask used substantially before or during the inter-frequency handoff (see Page.
2, Paragraph [0012]).

Conclusion

6. Any response to this Office Action should be **faxed** to (571) 273-8300 or
Mailed
to :

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Commissioner for Patents,
P.O.Box 1450
Alexandria, VA 22313-1450

Hand-delivered responses should be brought to

Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314


7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ramtin Kangarloo whose telephone number is (571) 270-3452. The examiner can normally be reached on Monday to Thursday 7:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Benny Tieu can be reached on (571) 272-7490. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Ramtin Kangarloo
Examiner Art Unit 4177
October 4, 2007


BENNY Q. TIEU
SPE/TRAINER